



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 30 November 2006

**DS 825/1/06
REV 1**

NOTE

from: Presidency

to : Special Committee on Agriculture

No. Cion prop. : 5101/06

Subject : Proposal for a Council Regulation amending Regulation (EC) No. 2092/91 on organic production of agricultural products and indications referring thereto in agricultural products and foodstuffs

Delegations will find attached the revised version of doc. DS 825/06, which has been prepared by the Presidency in co-operation with the Commission Services.

COUNCIL REGULATION

amending Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto in agricultural products and foodstuffs

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament¹,

Whereas:

- (1) Given the need to advance on the implementation of the European Action Plan for Organic Food and Farming on the basis of concrete measures with a view to assuring simplification and overall coherence, the Commission has on 6 January 2006 presented to the Council a proposal for a Council Regulation on organic production and labelling of organic products² repealing and replacing Council Regulation (EEC) No 2092/91.
- (2) According to this proposal, organic products imported into the Community should be allowed to be placed on the Community market labelled with a reference to organic farming, where they have been produced in accordance with production rules and subject to inspection arrangements that are in compliance with or equivalent to Community legislation.
- (3) To this end, third countries whose production standards and inspection arrangements are equivalent to those applied in the Community should be recognised and a list thereof should be published. In addition, inspection bodies or inspection authorities competent to carry out inspection in countries which are not on the list of recognised third countries should also be recognised and listed. Finally, third country operators who produce in direct compliance with Community rules should be allowed to submit their activities to inspection bodies and inspection authorities recognised by the Commission for this purpose. This list may also include inspection bodies and inspection authorities approved or designated by the Member States.
- (4) Article 11(6) of Regulation (EEC) No 2092/91 provides for the possibility for Member States to grant until 31 December 2006 authorisations to importers for the placing on the Community market of individual products under certain conditions. It is thus

¹ OJ C [...], p. [...].

² COM(2005) 671

appropriate to amend that Article, so as to allow for a replacement of the current import scheme by the new import scheme as from that date.

- (5) The new import scheme should thus apply as from 1 January 2007. However, this will leave little time for its implementation, in particular as regards the recognition of inspection bodies and inspection authorities competent to carry out inspection in those countries which are not on the list of recognised third countries. In order not to disrupt international trade, it is considered necessary to extend the possibility for Member States to continue to grant authorisations to importers on a case by case basis for the placing on the Community market of products until the measures necessary for the functioning of the new import scheme have been put in place.
- (6) Regulation (EEC) No 2092/91 should be amended accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2092/91 is amended as follows:

- (1) In Article 10(1), point (b) is replaced by the following:
- “(b) have been subject to the inspection system referred to in Article 9, or have been imported in conformity with article 11;”
- (2) Article 11 is replaced by the following:

“Article 11

1. A product imported from a third country may be placed on the Community market labelled as a product with indications referring to the organic production method provided that:
- (a) the product complies with the provisions set out in articles 5 and 6 of this Regulation;
 - (b) the operators, including the exporters, have submitted their activities to an inspection body or an inspection authority recognised in accordance with paragraph 2;
 - (c) the operators concerned shall be able to provide, to the importers or the national authorities, a copy of a formal document permitting the identification of the operator who carried out the last operation and the type or range of products under his control, as well as permitting verification of compliance by this operator with points (a) and (b), and the period of validity.

2. The Commission shall in accordance with the procedure referred to in Article 14(2) recognise the inspection bodies and inspection authorities referred to in paragraph 1 (b), including inspection bodies and inspection authorities as referred to in Article 9, competent to carry out inspections and to issue the formal documents referred to in paragraph 1 (c) in third countries, and establish a list of these inspection bodies and inspection authorities.

The inspection bodies shall be accredited to the European Standard EN 45011 or ISO Guide 65 'General requirements for bodies operating product certification systems' of the version most recently notified by a publication in the *Official Journal of the European Union, C series*.

When examining requests for recognition, the Commission shall invite the inspection body or authority to supply all the necessary information. The Commission may also entrust experts with the task of examining on-the-spot the rules of production and the inspection activities carried out in the third country by the inspection body or authority concerned.

The Commission assisted by the Member States ensures appropriate supervision of the recognised inspection bodies and inspection authorities by regularly reviewing their recognition. The nature of the supervision shall be determined on the basis of an assessment of the risk of the occurrence of irregularities or infringements of the provisions set out in or pursuant to this Regulation.

3. A product imported from a third country may also be placed on the Community market labelled as a product with indications referring to the organic production method provided that:
 - (a) the product has been produced in accordance with production standards equivalent to the production rules laid down in Articles 5 and 6 applied to organic production in the Community;
 - (b) the operators have been subject to inspection measures of equivalent effectiveness to those referred to in Articles 8 and 9 and such inspection measures have been permanently and effectively applied;
 - (c) the operators at all stages of production, preparation and distribution in the third country have submitted their activities to an inspection system recognised in accordance with paragraph 4 or an inspection body or inspection authority recognised in accordance with paragraph 5;
 - (d) the product is covered by a certificate of inspection issued by the competent authorities or inspection bodies or inspection authorities of the third country recognised in accordance with paragraph 4, or by an inspection body or inspection authority recognised in accordance with paragraph 5, which confirms that the product satisfies the conditions set out in this paragraph.

The certificate referred to in this subparagraph must accompany the goods, in the original copy, to the premises of the first consignee; thereafter the importer must keep the certificate at the disposal of the inspection body and, as appropriate, the inspection authority for not less than two years.

4. The Commission may, in accordance with the procedure referred to in Article 14(2), recognise the third countries whose system of production complies with rules equivalent to those laid down in Articles 5 and 6 and whose inspection arrangements are of equivalent effectiveness to those laid down in Article 8 and 9, and establish a list of these countries. The assessment of equivalency shall take into account *Codex Alimentarius* guidelines CAC/GL 32.

When examining requests for recognition, the Commission shall invite the third country to supply all the necessary information. The Commission may entrust experts with the task of examining on-the-spot the rules of production and the inspection arrangements of the third country concerned.

The Commission assisted by the Member States ensures appropriate supervision of the recognised third countries by regularly reviewing their recognition. The nature of the supervision shall be determined on the basis of an assessment of the risk of the occurrence of irregularities or infringements of the provisions set out in or pursuant to this Regulation.

5. For products not imported under paragraph 1 and not imported from a third country which is recognised under paragraph 4, the Commission may, in accordance with the procedure referred to in Article 14(2), recognise the inspection bodies and inspection authorities, including inspection bodies and inspection authorities as referred to in Article 9, competent to carry out inspections and issue certificates in third countries for the purpose of paragraph 3, and establish a list of these inspection bodies and inspection authorities. The assessment of equivalency shall take into account *Codex Alimentarius* guidelines CAC/GL 32.

The Commission shall examine any request for recognition lodged by an inspection body or an inspection authority in a third country.

When examining requests for recognition, the Commission shall invite the inspection body or inspection authority to supply all the necessary information. The Commission may entrust experts with the task of examining on-the-spot the rules of production and the inspection activities carried out in the third country by the inspection body or inspection authority concerned.

The Commission assisted by the Member States ensures appropriate supervision of recognised inspection bodies and inspection authorities by regularly reviewing their recognition. The nature of the supervision shall be determined on the basis of an assessment of the risk of the occurrence of irregularities or infringements of the provisions set out in or pursuant to this Regulation.

6. For a period starting on 1 January 2007 and ending 12 months after the publication of the first list of inspection bodies and inspection authorities recognised pursuant to paragraph 5, the competent authority of a Member State may authorise importers in that Member State to place on the market products imported from third countries which are not included in the list referred to in paragraph 4, provided that the importer provides sufficient evidence showing that the conditions referred to in points (a) and (b) of paragraph 3 are satisfied. If those conditions are no longer satisfied, the authorisation shall be immediately withdrawn. Authorisations shall expire at the latest 24 months after the publication of the first list of inspection bodies and inspection authorities recognised pursuant to paragraph 5. The imported product shall be covered by a certificate of inspection issued by the authority or body which has been accepted for issuing the certificate of inspection by the competent authority of the authorising Member State.

The certificate referred to in this subparagraph must accompany the goods, in the original copy, to the premises of the first consignee; thereafter the importer must keep the certificate at the disposal of the inspection body and, as appropriate, the inspection authority for not less than two years.

Each Member State shall inform the other Member States and the Commission of each authorisation granted pursuant to this paragraph, including information on the production standards and inspection arrangements concerned.

At the request of a Member State or at the Commission's initiative, an authorisation granted pursuant to this paragraph shall be examined by the Committee set in Article 14. If it emerges from this examination that the conditions referred to in points (a) and (b) of paragraph 3 of this Article are not satisfied, the Commission shall require the Member State which granted the authorisation to withdraw it.

7. The Commission shall, in accordance with the procedure referred to in Article 14(2), adopt detailed rules for the application of this Article, and in particular:
- (a) as regards the criteria and procedures to be followed with regard to the recognition of third countries and inspection bodies and inspection authorities under paragraphs 5 and 6 of this Article, including the publication of lists of recognised third countries and inspection bodies and inspection authorities,
 - (b) as regards the formal document referred to in paragraph 1 and the certificate referred to in paragraphs 3(d) and 6 of this Article.”
- (3) The second subparagraph of Article 16(3) is deleted.
- (4) Point C of Annex III is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

Point C of the Specific Conditions in Annex III to Regulation (EEC) No 2092/91 is amended as follows:

- (1) In the first paragraph, the second indent is replaced by the following:

“– the first consignee shall mean the natural or legal person referred to in Article 11 (3) (d) and 11 (6) to whom the consignment is delivered and who will receive it for further preparation or placing on the Community market.”
- (2) In point 5, the first subparagraph is replaced by the following:

“The inspection body or authority shall inspect the stock and financial records mentioned in section C, point 2 and the certificate of inspection referred to in Article 11(3)(d) or Article 11(6) and, where available, the formal document referred to in Article 11 (1).”